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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA, HELENA DIVISION**

TERRY COLBY,) Cause No.
)
Plaintiff,)
)
vs.) ANSWER AND DEMAND FOR
) JURY TRIAL OF DEFENDANT
) THERESA SULLIVAN
)
THERESA LOU SULLIVAN,)
)
Defendant.)
_____)

COMES NOW, Defendant Theresa Sullivan, by and through her counsel of record, and answers Plaintiff's Complaint and Demand for Jury Trial (hereinafter "Complaint") as follows:

FACTS

1. In response to the Facts section, including the prefatory sentence and Paragraph Nos. 1-6, admits an accident occurred on June 29, 2023, when a motor vehicle driven by the Plaintiff collided with a motor vehicle driven by Defendant Sullivan at or near the intersection of Cemetery Road and U.S. Highway 12 in

Elliston, Powell County, Montana. Defendant Sullivan admits she was negligent in causing the accident, and that she is responsible for reasonable damages caused by the accident. Denies the remaining allegations of the prefatory sentence and Paragraph Nos. 1-6 as alleged.

COUNT I - NEGLIGENCE

2. Denies the allegations of Paragraph Nos. 7-11 as alleged. Additionally denies the allegations of Paragraph Nos. 7-11 as calling for legal conclusions. Defendant Sullivan admits she was negligent in causing the accident, and that she is responsible for reasonable damages caused by the accident. The nature and extent of the injuries and damages claimed by Plaintiff are in dispute and will be the subject of ongoing discovery.

COUNT II – NEGLIGENCE *PER SE*

3. Denies the allegations of Paragraph Nos. 12-14 as alleged. Additionally denies the allegations of Paragraph Nos. 12-14 as calling for legal conclusions. Defendant Sullivan admits she was negligent in causing the accident, and that she is responsible for reasonable damages caused by the accident. The nature and extent of the injuries and damages claimed by Plaintiff are in dispute and will be the subject of ongoing discovery.

FIRST AFFIRMATIVE DEFENSE

Defendant Sullivan denies each and every allegation in the Complaint not specifically admitted, denied, or qualified.

SECOND AFFIRMATIVE DEFENSE

The Complaint fails to state a cause of action upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

To the extent there has been a failure to mitigate, minimize, or avoid any of Plaintiff's claimed damages, any recovery against Defendant Sullivan is void or must be reduced accordingly.

FOURTH AFFIRMATIVE DEFENSE

Pursuant to Mont. Code Ann. § 27-1-308, any recovery against Defendant Sullivan must be reduced by the amount of any payments received by Plaintiff from collateral sources.

FIFTH AFFIRMATIVE DEFENSE

Plaintiff's claimed damages were caused by the intervening, superseding, or contributing acts and conduct of persons or entities other than Defendant Sullivan over which Defendant Sullivan had no control, thereby precluding any recovery against Defendant Sullivan.

SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claimed damages were caused by unforeseeable, intervening, and independent factors unrelated to the actions of Defendant Sullivan.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are subject to and must be reduced accordingly by the comparative negligence provisions of Montana law set forth in Mont. Code Ann. § 27-1-702.

EIGHTH AFFIRMATIVE DEFENSE

Pursuant to Mont. Code Ann. § 27-1-703, Defendant Sullivan is entitled to and reserves the right of contribution from any other person or entity whose negligence and/or intentional conduct may have contributed to Plaintiff's claimed damages.

NINTH AFFIRMATIVE DEFENSE

Pursuant to Mont. Code Ann. §§ 27-1-702 and 27-1-703, any liability on the part of Defendant Sullivan must be reduced in proportion to the negligence or responsibility of Plaintiff and any other person or entity whose negligence and/or intentional conduct may have contributed to Plaintiff's claimed damages.

TENTH AFFIRMATIVE DEFENSE

Defendant Sullivan hereby gives notice she intends to rely upon such other affirmative defenses as may become available or apparent during the course of

discovery or other proceedings and thus reserves the right to amend this list or assert such other defenses to which it may be entitled.

DEMAND FOR JURY TRIAL

Defendant Sullivan hereby demands a trial by jury.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendant Sullivan admits she was negligent in causing the subject accident but denies the remaining allegations of Plaintiff's Complaint and asks that the same be dismissed with prejudice, awarding Defendant Sullivan her costs of suit and such other and further relief as the Court deems appropriate under the circumstances.

DATED this 31st day of January, 2025.

By: /s/ Brett C. Jensen
Brett C. Jensen
BROWN LAW FIRM, P.C.
Attorneys for Defendant Theresa Sullivan

CERTIFICATE OF SERVICE

I hereby certify that, on January 31, 2025, a copy of the foregoing was served on the following person(s):

1. U.S. District Court, Helena Division
2. Keif Storrar
DOUBEK, PYFER & STORRAR
Attorneys for Plaintiff

by the following means:

<u>1-2</u> CM/ECF	<u> </u> Fax
<u> </u> Hand Delivery	<u> </u> E-Mail
<u> </u> U.S. Mail	<u> </u> Overnight Delivery Services

By: /s/ Brett C. Jensen
Brett C. Jensen
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